

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

---

In the Matter of )

SoundBite Communications, Inc. )

Petition for Declaratory Ruling )

---

CG Docket No. CG 02-278

**REPLY COMMENTS OF THE MOBILE MARKETING ASSOCIATION IN SUPPORT**

The Mobile Marketing Association (“MMA”) is replying to the Public Comments to further express its support of the SoundBite petition<sup>1</sup> for declaratory ruling regarding the narrow issue that sending a confirmatory text message to a consumer who has chosen to opt-out of receiving text messages does not violate the Telephone Consumer Protection Act (“TCPA”).

The global mobile marketing industry is experiencing dramatic and exciting growth, as increasing numbers of consumers are choosing to take part in mobile communications and activities. Mobile is growing exponentially. In 2010, the global population was 6.8 billion, and there were 5.3 billion mobile devices in the world. In 2011, 6.5 billion text messages were sent daily in the United States. Mobile reach now exceeds the penetration of all PCs, televisions, and landlines combined. Smartphones now account for over fifty percent of all devices sold in the United States. In addition, 25 percent of U.S. web users rely solely on their mobile devices for their web access. By 2015, mobile internet use will outpace internet use on PCs and other wired

---

<sup>1</sup> *SoundBite Communications, Inc.*, Petition for Expedited Declaratory Ruling, CG Docket No. 02-278 (filed Feb. 16, 2012) (SoundBite Petition).

devices combined. These are only a few of the many statistics that underscore the positive economic impact mobile marketing is making in the United States and abroad.

The MMA is the premier global non-profit trade association representing all players in the mobile marketing value chain. With more than 700 member companies, the MMA is an action-oriented organization with global focus, regional actions, and local relevance. The MMA's primary focus is to establish mobile as an indispensable part of marketing strategy. The MMA works to promote, educate, measure, guide, and protect the mobile marketing industry worldwide.

As the MMA stated in its original filing, a central tenet of the MMA is that brand marketers and their marketing partners should always provide consumers with transparency, notice, and choice. Encouraging this honesty engenders trust among consumers, and this trust is essential to creating a healthy marketplace and ecosystem for marketers and consumers alike.

But now billions of dollars are at risk in light of the fact that class action lawsuits alleging that sending confirmatory opt-out text messages violates the TCPA are being filed against a number of diverse companies and government organizations that send out such text messages. As SoundBite pointed out in its public comment, the following entities include confirmatory opt-out text messages in their text message programs:

- American Automobile Association (AAA)
- Center for Disease Control and Prevention
- Chicago Transit Authority
- Federal Emergency Management Agency
- Fish and Wildlife Service
- History Channel
- National Healthy Mothers, Healthy Babies Coalition
- Obama for America
- Romney for President
- United States Government (USA.gov)

Not only is each one of these entities at risk of being sued for millions of dollars, but the overarching threat of these types of lawsuits has the potential of bringing the text message industry to a halt.

As the positive economic impact of mobile marketing continues to manifest itself, a definitive ruling by the FCC stating that a confirmatory opt-out text message is not only allowed under existing TCPA rules, but is also encouraged, will remove unnecessary impediments that are stifling a healthy and vibrant driver of jobs, income, and opportunity. Such a ruling would also help continue to provide certainty and comfort to consumers and emphasize the importance of consumer protection, privacy, and satisfaction as the mobile industry continues to grow.

Dated: May 15, 2012

Respectfully submitted,

By: s/ Cara J. Frey  
Cara J. Frey  
General Counsel  
*Mobile Marketing Association*  
770 Broadway, 2nd Floor  
New York, New York 10003  
Tel: 917.209.8453  
cara.frey@mmaglobal.com  
mma@mmaglobal.com

*4INFO, Inc.*  
177 Bovet Road  
San Mateo, CA 94402

*Actium Advisors LLC dba Acta Wireless*  
1200 G Street NW  
Suite 800  
Washington, DC 20005

*AT&T Mobility*  
208 S. Akard St.  
Dallas, Texas 75202

*Cincinnati Bell Wireless*  
221 E. Fourth St.  
P.O. Box 2301  
Cincinnati, Ohio 45201-2301

*Telescope, Inc.*  
11845 W. Olympic Boulevard  
Suite 695  
Los Angeles, California 90064

*Vibes Media*  
300 W Adams Street  
7th Floor  
Chicago, Illinois 60606

*Waterfall Mobile, Inc.*  
564 6th Street  
2nd Floor  
San Francisco, CA 94103